

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN SENATE APRIL 9, 2013

AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 328**

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**Introduced by Senator Knight**

February 19, 2013

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An act to add and repeal Section 20146 of the Public Contract Code, relating to public works contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 328, as amended, Knight. Counties: public works contracts.

Existing law provides that if the estimated cost of construction of any county building or the cost of any painting, or repairs thereto exceeds a specified sum, the work shall be done by contract and that any such contract not let pursuant to specified provisions is void. Existing law requires a board of supervisors to award the contract to the lowest responsible bidder. Existing law also authorizes a county, with approval of the board of supervisors, to utilize an alternative procedure for bidding on construction projects in the county in excess of \$2,500,000 and to award the project using either the lowest responsible bidder or by best value, as specified.

This bill would authorize a county, until January 1, 2021, with approval of the board of supervisors, to utilize construction manager at-risk construction contracts for the erection, construction, alteration, repair, or improvement of any building owned or leased by the county. The bill would provide that a construction manager at-risk contract may ~~only~~ be used *only* for projects in the county in excess of \$1,000,000 and may be awarded using either the lowest responsible bidder or best

value method, as defined. ~~This~~ *The* bill would require that subcontractors that were not listed by a construction manager at-risk entity as partners, general partners, or association members in a partnership, limited partnership, or association in the entity's construction manager at-risk bid submission, be awarded certain work by the construction manager at-risk entity in accordance with the process set forth by the county, as provided.

This bill would require a county that elects to use a construction manager at-risk contract to ~~submit to the office of the State Controller a copy of the construction manager at-risk contract, and would require the office of the State Controller to make the copies~~ *a copy* of the contract available for public inspection on its Internet Web site *and to notify the appropriate policy committees of the Legislature with instructions on finding and accessing the stored contract.*

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 20146 is added to the Public Contract
- 2 Code, to read:
- 3 20146. (a) A county, with approval of the board of supervisors,
- 4 may utilize construction manager at-risk construction contracts
- 5 for the erection, construction, alteration, repair, or improvement
- 6 of any building owned or leased by the county. A construction
- 7 manager at-risk construction contract may ~~only~~ be used *only* for
- 8 projects in the county in excess of one million dollars (\$1,000,000)
- 9 and may be awarded using either the lowest responsible bidder or
- 10 best value method.
- 11 (b) For purposes of this section, the following definitions apply:
- 12 (1) "Best value" means a value determined by objective criteria
- 13 related to the experience of the entity and project personnel, project
- 14 plan, financial strength of the entity, safety record of the entity,
- 15 and price.
- 16 (2) "Construction manager at-risk contract" means a
- 17 competitively procured contract by a county with an individual,
- 18 partnership, joint venture, corporation, or other recognized legal
- 19 entity, that is appropriately licensed in this state and that guarantees
- 20 the cost of a project and furnishes construction management
- 21 services, including, but not limited to, preparation and coordination

1 of bid packages, scheduling, cost control, value engineering,  
2 evaluation, preconstruction services, and construction  
3 administration.

4 (c) Subcontractors that were not listed by a construction manager  
5 at-risk entity as partners, general partners, or association members  
6 in a partnership, limited partnership, or association in the entity's  
7 construction manager at-risk bid submission shall be awarded by  
8 the construction manager at-risk entity in accordance with the  
9 process set forth by the county. All subcontractors bidding on  
10 contracts pursuant to this section shall be afforded the protections  
11 contained in Chapter 4 (commencing with Section 4100) of Part  
12 1. The construction manager at-risk entity shall do both of the  
13 following:

14 (1) Provide public notice of the availability of work to be  
15 subcontracted in accordance with the publication requirements  
16 applicable to the competitive bidding process of the county.

17 (2) Provide a fixed date and time on which the subcontracted  
18 work will be awarded in accordance with the procedure established  
19 pursuant to this section.

20 (d) A county that elects to proceed under this section and uses  
21 a construction manager at-risk contract for a building project shall  
22 ~~submit to the office of the State Controller, in electronic format,~~  
23 ~~a copy of the construction manager at-risk contract. The office of~~  
24 ~~the State Controller shall make the copies of contracts it receives~~  
25 ~~pursuant to this subdivision~~ *make a copy of the contract* available  
26 for public inspection on its Internet Web site *and notify the*  
27 *appropriate policy committees of the Legislature with instructions*  
28 *on finding and accessing the stored contract.*

29 (e) This section shall remain in effect only until January 1, 2021,  
30 and as of that date is repealed, unless a later enacted statute, that  
31 is enacted before January 1, 2021, deletes or extends that date.